

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ALBERTO TRAPAGA,	)	
Petitioner,	)	
	)	CA #04-12599-NMG
v.	)	
	)	
BRUCE CHADBOURNE, Interim	)	
Director, Bureau of Immigration and	)	
Customs Enforcement, ROBERT	)	
MURPHY, Superintendent of the Nemasket	)	
Correctional Center, and KATHLEEN	)	
DENEHY, Commissioner of the	)	
Massachusetts Department of Corrections,	)	
Respondents.	)	

**RESPONDENT, BRUCE CHADBOURNE'S MOTION TO DISMISS FOR LACK OF  
SUBJECT MATTER JURISDICTION AND FOR FAILURE TO STATE A CLAIM  
UPON WHICH RELIEF MAY BE GRANTED**

The Respondent Bruce Chadbourne hereby moves, pursuant to Fed. R. Civ. P. 12(b)(1) and (6), to dismiss this claim on the ground that this Court lacks subject matter jurisdiction and on the ground that the petition fails to state a claim upon which relief may be granted.

In support of the motion, the Respondent submits the attached memorandum of law.

Wherefore, the Respondent requests that the Petition be dismissed.

Respectfully submitted,

MICHAEL SULLIVAN  
United States Attorney

/s/ Mark J. Grady  
Mark J. Grady, Assistant U.S. Attorney  
John J. Moakley Courthouse  
One Courthouse Way, Suite 9200  
Boston, MA 02210  
(617) 748-3136

**Certificate of Compliance with L.R. 7.1**

The United States takes the position that Local Rule 7.1 requires "counsel" to confer and, as the Petitioner is pro se, is therefore inapposite. Notwithstanding, as the Petitioner is a sexually dangerous person presently committed to the custody of the Commonwealth of Massachusetts, the Respondent requests leave to file the motion without a Rule 7.1 conference.

/s/ Mark J. Grady  
Mark J. Grady  
Assistant United States Attorney

**Certificate of Service**

IT IS HEREBY CERTIFIED that on this \_31<sup>st</sup> day of January 2005, service of the foregoing Memorandum has been made upon the Petitioner by first class mail.

/s/ Mark J. Grady  
Mark J. Grady  
Assistant United States Attorney